

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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MARGARET RATNER KUNSTLER, DEBORAH  
HRBEK, JOHN GOETZ & CHARLES GLASS,

Civil Action No. 22-cv-6913

Plaintiffs,

**AFFIDAVIT FOR  
JUDGMENT BY DEFAULT**

-against-

CENTRAL INTELLIGENCE AGENCY, MICHAEL R.  
POMPEO, DAVID MORALES GUILLEN  
and UNDERCOVER GLOBAL S.L.,

Defendants.

-----X  
STATE OF NEW YORK        )  
                                  )       ss.:  
COUNTY OF NEW YORK    )

BRIAN LEVENSON, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of The Roth Law Firm, PLLC, attorneys for plaintiffs in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of plaintiff's application for the entry of a default judgment against defendant, Undercover Global, S.L. ("UC Global")

3. This is an action to recover compensatory and punitive damages against UC Global violations, under color of federal authority, of Plaintiffs' Fourth Amendment rights. ECF 1, ¶ 51, and to enjoin UC Global from using or revealing to any third party the content of private communications seized by UC Global. ECF 1, p. 12.

4. Jurisdiction of the subject matter of this action is based on federal question (Fourth Amendment violation) jurisdiction.

5. This action was commenced against UC Global on August 15, 2022 by the filing of the complaint, and the filing of the summons on August 23, 2022. A copy of the summons and complaint was

served on defendant Morales on November 4, 2022 by service on Morales pursuant to the provisions of FRCP 4(f)(2)(C)(ii) by Fedex tracking number # 7701 6199 5450 and proof of service by the Clerk of the Court, Ruby Krajick, was filed. ECF 18. The Complaint asserted one cause of action against Morales for violation of Plaintiffs' Fourth Amendment rights. ECF 1 (Complt., ¶ 51).

6. Morales was in default as of January 13, 2023 when he failed to have counsel file a notice of appearance and file an answer as ordered by the Court. ECF 21 (Dec. 8, 2022 Order).

7. After Morales was in default, Plaintiffs filed a First Amended Complaint on January 27, 2023. ECF 27. **The First Amended Complaint did not assert any new claim for relief against Morales and therefore was not required to be served on Morales under Fed. R. Civ. Pro. 5(a)(2).** ECF 27 (First Amended Complaint, ¶ 55).

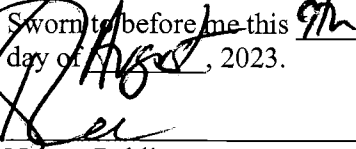
8. The defendant Morales has not answered the complaint and the time for the defendant Morales to answer the complaint has expired. ECF 39, p. 2. ("Plaintiffs may move by order to show cause for default judgment against Morales by August 10, 2023")

9. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

WHEREFORE, Plaintiffs requests the entry of the annexed Clerk's Certificate of Default against defendant Morales.

Dated: New York, New York  
August 9, 2023

  
Brian Levenson

  
Sworn to before me this 9th  
day of August, 2023.  
\_\_\_\_\_  
Notary Public

**RICHARD ROTH**  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 02RO5075155  
Qualified in Westchester County  
Commission Expires March 31, 2023